

**The Honorable Judge Whitman Holt  
Chapter 12**

Arnold M. Willig  
Elizabeth H. Shea  
Charles L. Butler, III  
HACKER & WILLIG, INC., P.S.  
520 Pike Street, Suite 2510  
Seattle, Washington 98101-4006  
Telephone (206) 340-1935  
Attorneys for Creditor Heritage Bank

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON**

In re:

**JENSEN HAY FARMS LLC,**  
  
Debtor.

**No. 20-01352-WLH12**

**HERITAGE BANK'S OBJECTION TO  
THE DEBTOR'S MOTION TO  
EXTEND TIME FOR FILING OF  
CHAPTER 12 PLAN AND FOR PLAN  
CONFIRMATION**

**I. INTRODUCTION & RELIEF REQUESTED**

Heritage Bank, a secured creditor herein, by and through its attorneys, Hacker & Willig, Inc., P.S., respectfully submits this objection to Jensen Hay Farms, LLC's ("Jensen" or the "Debtor") Motion To Extend Time for 1) Filing of Debtor's Chapter 12 Plan; 2) Hearing on Confirmation of the Chapter 12 Plan, and 3) Filing a Motion for and Date of Hearing for a Valuation Hearing, filed September 3, 2020 (the "Motion"), and asks that the Court deny the Motion.

**II. STATEMENT OF FACTS**

As of the date this case was filed on July 2, 2020, the Debtor owed Heritage Bank well over \$5,300,000.00 under four separate loans. The Debtor has been in default on two of the four loans

1 (the “2018 Operating Line” and the “2019 Operating Line”) since September 2019. The last  
2 payments were made in late August 2019 for the payments that were due August 15, 2019. These  
3 two loans, which had a joint outstanding balance of over \$1,800,000 as of June 19, 2020, matured  
4 and were due in full on November 15, 2019. See, Declaration of Adam Jensen (“Jensen Decl.”) at  
5 Dkt. No 24 at page 5. The largest loan, with a balance of over \$3,452,000 as of June 19, 2020  
6 (See, Dkt. No. 24 at page 5), is in default because the Debtor failed to make its yearly payment of  
7 \$285,557.90 as of April 15, 2020.

8 Despite the Debtor continuing to operate its business using Heritage Bank’s collateral, no  
9 payments have been made for over a year. Clearly, the Debtor has known of its financial  
10 problems and defaults for over a year and its situation has worsened over the months prior to the  
11 bankruptcy filing. In fact, according to the Debtor, its business has operated at a loss for at least  
12 the last four (4) years, and its 2019 loss was over \$415,000. Jensen Decl., Dkt. No. 24 at page 10.  
13 While no payments have been made to Heritage Bank on any of the four loans for over a year, the  
14 interest, fees, and costs continue to accrue. Heritage Bank’s claim has *increased* during the  
15 course of this bankruptcy case.

16 The Debtor filed its voluntary petition on July 2, 2020. Covid-19 began affecting business  
17 operations months prior to the filing of the petition, but Debtor still waited 45 days *after* filing the  
18 petition to engage an appraiser and order a valuation of collateral. The appraisal is scheduled to be  
19 completed in a matter of days, and therefore, there is no need to extend the dates for filing the  
20 plan and holding the confirmation hearing.<sup>1</sup>

---

21  
22  
23 <sup>1</sup> The Debtor seeks a continuance of the hearing on valuation to November 9, 2020. However, although  
24 the Clerk of Court sent a notice of hearing out on July 2, 2020 (see, Dkt. No. 10), it does not appear that  
25 the Debtor ever actually filed a motion for a valuation hearing. Local Rule 2082-1 (g)(1) requires that, “[i]f  
26 a debtor intends to treat any secured creditor as other than fully secured, the debtor shall file a motion to  
value the property claimed as security for the claim.” Such motion is supposed to be filed no later than  
thirty (30) days after the date of filing the petition. It does not appear that the Debtor filed any such  
motion. Therefore, no hearing is required. To the extent the Debtor is asking for additional time to file a  
motion for a valuation hearing, Heritage Bank objects.

1 **III. ARGUMENT**

2 The bankruptcy code requires the Debtor to file a plan not later than ninety (90) days after  
3 the petition is filed unless extended by the Court if “the need for an extension is attributable to  
4 circumstances for which the debtor should not justly be held accountable.” See, 11 U.S.C. § 1221.

5 Here, the Debtor claims that more time is needed to file a plan because the appraisals/valuations  
6 will not be completed until sometime this week, and the “plan and likelihood of confirmation of  
7 the case will be driven in large part by what the appraiser’s determinations are.” See, Motion, Dkt.  
8 No. 40 at page 2. The Debtor was well aware of the need for valuations in order to formulate and  
9 file a plan. The delay in engaging an appraiser was wholly attributable to the Debtor and was a  
10 circumstance for which it is accountable. The current deadlines should therefore remain  
11 undisturbed.

12 **IV. CONCLUSION**

13 Therefore, Heritage Bank respectfully requests that Debtor’s Motion be denied.

14 DATED this 28<sup>th</sup> day of September, 2020.

15 Respectfully submitted,

16 HACKER & WILLIG, INC., P.S.

17 /s/Elizabeth H. Shea

18 Arnold M. Willig, WSBA #20104

19 Elizabeth H. Shea, WSBA #27189

20 Charles L. Butler, III, WSBA #36893

21 Attorneys for Heritage Bank  
22  
23  
24  
25  
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 28, 2020, I caused the foregoing document to be  
3 electronically filed with the Clerk of the Court using the CM/ECF system which will send  
4 notification of the filing to all counsel of record.

5 DATED this 28<sup>th</sup> day of September, 2020.

6 Respectfully submitted,

7 HACKER & WILLIG, INC., P.S.

8 /s/ Courtney D. Burford

9 Courtney D. Burford  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26